S T A T E O F N E W Y O R K

6383

I N S E N A T E

January 21, 2014

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the student athlete bill of rights; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "student athlete bill of rights".

S 2. The Legislature finds and declares the following:

1. Meeting the educational needs of student athletes should be a priority for intercollegiate athletic programs.

2. New York's institutions of higher education that participate in Division I and Division II intercollegiate athletics collectively generate millions of dollars annually in media contracts, and this revenue would not exist without the efforts of student athletes.

3. Student athletes generate large revenues for many athletic programs, spend approximately forty hours per week participating in their respective sports, and suffer current and historically low graduation rates.

4. Providing adequate health and safety protection for student athletes can help prevent serious injury and death.

5. Current and former student athletes can be left to pay for medical expenses incurred from injuries suffered while participating in intercollegiate athletics.

6. Institutions of higher education should provide their student athletes with the same due process protection afforded to students who do not participate in athletics.

7. Athletic programs in this state are subject to federal gender equity requirements under Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.).

8. An institution of higher education should not punish any student athlete for transferring to another institution of higher education.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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9. An institution of higher education should not use funds for purposes of this part that are dedicated for the benefit of the general student body.

S 3. The education law is amended by adding a new section 679-f to read as follows:

S 679-F. COLLEGIATE ATHLETIC SCHOLARSHIP. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "ATHLETIC ASSOCIATION" MEANS ANY ORGANIZATION THAT IS RESPONSIBLE FOR GOVERNING INTERCOLLEGIATE ATHLETIC PROGRAMS.

(B) "ATHLETIC PROGRAM" MEANS AN INTERCOLLEGIATE ATHLETIC PROGRAM AT ANY INSTITUTION OF HIGHER EDUCATION WITHIN THE MEANING OF PARAGRAPH (D) OF THIS SUBDIVISION.

(C) "GRADUATION SUCCESS RATE" MEANS THE PERCENTAGE OF STUDENT ATHLETES WHO GRADUATE FROM THAT INSTITUTION OF HIGHER EDUCATION WITHIN SIX YEARS OF THEIR INITIAL ENROLLMENT, EXCLUDING OUTGOING TRANSFERS IN GOOD ACADEMIC STANDING WITH ATHLETIC ELIGIBILITY REMAINING, AND INCLUDING INCOMING TRANSFERS. THE RATE IS TO BE CALCULATED BY COMBINING THE RATES OF THE FOUR MOST RECENT CLASSES THAT ARE AVAILABLE IN THE EXACT MANNER AS THE RATE IS CALCULATED UNDER NATIONAL COLLEGIATE ATHLETIC ASSOCIATION RULES.

(D) "INSTITUTION OF HIGHER EDUCATION" MEANS ANY CAMPUS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK, COMMUNITY COLLEGES AS DEFINED IN SECTION SIXTY-THREE HUNDRED ONE OF THIS CHAPTER AND ANY FOUR-YEAR PRIVATE UNIVERSITY LOCATED IN NEW YORK, THAT MAINTAINS AN INTERCOLLEGIATE ATHLETIC PROGRAM.

(E) "MEDIA RIGHTS" MEANS THE RIGHTS TO MEDIA COVERAGE OF INTERCOLLEGIATE ATHLETICS INCLUDED IN CONTRACTS THAT ARE ENTERED INTO BY INTERCOLLEGIATE ATHLETIC CONFERENCES AND TELEVISION NETWORKS AND THAT GENERATE MONETARY PAYMENTS TO INDIVIDUAL INSTITUTIONS OF HIGHER EDUCATION.

(F) "STUDENT ATHLETE" MEANS ANY COLLEGE STUDENT WHO PARTICIPATES IN AN INTERCOLLEGIATE ATHLETIC PROGRAM OF AN INSTITUTION OF HIGHER EDUCATION, AND INCLUDES STUDENT ATHLETES WHO PARTICIPATE IN BASKETBALL, FOOTBALL, AND OTHER INTERCOLLEGIATE SPORTS.

2. SCHOLARSHIP. COMMENCING WITH THE TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN ACADEMIC YEAR, AN ATHLETIC PROGRAM SHALL COMPLY WITH ALL OF THE FOLLOWING:

(A) (1) IF AN ATHLETIC PROGRAM DOES NOT RENEW AN ATHLETIC SCHOLARSHIP OF A STUDENT ATHLETE WHO SUFFERS AN INCAPACITATING INJURY OR ILLNESS RESULTING FROM HIS OR HER PARTICIPATION IN THE ATHLETIC PROGRAM, AND THE INSTITUTION OF HIGHER EDUCATION'S MEDICAL STAFF DETERMINES THAT HE OR SHE IS MEDICALLY INELIGIBLE TO PARTICIPATE IN INTERCOLLEGIATE ATHLETICS, THE INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE AN EQUIVALENT SCHOLARSHIP THAT, COMBINED WITH THE TOTAL DURATION OF ANY PREVIOUS ATHLETIC SCHOLARSHIP OR SCHOLARSHIPS RECEIVED BY THE STUDENT ATHLETE, WILL BE PROVIDED FOR A TOTAL OF UP TO FIVE ACADEMIC YEARS OR UNTIL THE STUDENT ATHLETE COMPLETES HIS OR HER UNDERGRADUATE DEGREE, WHICHEVER PERIOD IS SHORTER. ADDITIONAL YEARS MAY BE PROVIDED AT THE DISCRETION OF THE INSTITUTION OF HIGHER EDUCATION.

(2) IF A STUDENT ATHLETE TAKES A TEMPORARY LEAVE OF ABSENCE FROM AN INSTITUTION OF HIGHER EDUCATION, THE DURATION OF THAT LEAVE OF ABSENCE SHALL NOT COUNT AGAINST THE FIVE-YEAR LIMIT ON ELIGIBILITY FOR AN EQUIVALENT SCHOLARSHIP AS PROVIDED IN PARAGRAPH ONE OF THIS SUBDIVISION.

(3) AN ATHLETIC PROGRAM SHALL PROVIDE AN EQUIVALENT SCHOLARSHIP TO A STUDENT ATHLETE WHO WAS ON AN ATHLETIC SCHOLARSHIP AND IS IN GOOD STANDING, BUT HAS EXHAUSTED HIS OR HER ATHLETIC ELIGIBILITY, FOR UP TO ONE YEAR OR UNTIL THE STUDENT ATHLETE COMPLETES HIS OR HER PRIMARY UNDER-

GRADUATE DEGREE, WHICHEVER IS SHORTER; PROVIDED, HOWEVER, THAT AN ATHLETIC PROGRAM WITH A GRADUATION SUCCESS RATE THAT IS ABOVE SIXTY PERCENT, DISAGGREGATED BY TEAM, SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF THIS PARAGRAPH.

(4) A STUDENT ATHLETE WHOSE ATHLETIC SCHOLARSHIP IS NOT RENEWED FOR CAUSE BY AN ATHLETIC PROGRAM SHALL RECEIVE NO BENEFITS UNDER THIS PART, BUT MAY APPEAL THIS DECISION WITHIN THE INSTITUTION OF HIGHER EDUCATION ATTENDED BY THE STUDENT OR WITHIN THE ATHLETIC CONFERENCE OR ASSOCIATION OF WHICH THAT INSTITUTION OF HIGHER EDUCATION IS A MEMBER, AS APPROPRIATE.

3. FINANCIAL AND LIFE SKILLS COUNSELING. EACH ATHLETIC PROGRAM SHALL CONDUCT A FINANCIAL AND LIFE SKILLS WORKSHOP FOR ALL OF ITS FIRST-YEAR AND THIRD-YEAR STUDENT ATHLETES AT THE BEGINNING OF THE ACADEMIC YEAR. THIS WORKSHOP SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION CONCERNING FINANCIAL AID, DEBT MANAGEMENT, AND A RECOMMENDED BUDGET FOR FULL- AND PARTIAL-SCHOLARSHIP STUDENT ATHLETES LIVING ON OR OFF CAMPUS DURING THE ACADEMIC YEAR AND THE SUMMER TERM BASED ON THE CURRENT ACADEMIC YEAR'S COST OF ATTENDANCE. THE WORKSHOP SHALL ALSO INCLUDE INFORMATION ON TIME MANAGEMENT SKILLS NECESSARY FOR SUCCESS AS A STUDENT ATHLETE, AND ACADEMIC RESOURCES AVAILABLE ON CAMPUS.

4. DISCIPLINARY ACTIONS. AN INSTITUTION OF HIGHER EDUCATION SHALL GRANT A STUDENT ATHLETE THE SAME RIGHTS AS OTHER STUDENTS WITH REGARD TO ANY AND ALL MATTERS RELATED TO POSSIBLE ADVERSE OR DISCIPLINARY ACTIONS, INCLUDING, BUT NOT NECESSARILY LIMITED TO, ACTIONS INVOLVING ATHLETICALLY RELATED FINANCIAL AID.

5. REQUEST FOR TRANSFER. AN ATHLETIC PROGRAM SHALL RESPOND WITHIN SEVEN BUSINESS DAYS WITH AN ANSWER TO A STUDENT ATHLETE'S WRITTEN REQUEST TO TRANSFER TO ANOTHER INSTITUTION OF HIGHER EDUCATION.

6. INSURANCE. (A) UNLESS A STUDENT ATHLETE DECLINES THE PAYMENT OF PREMIUMS, AN ATHLETIC PROGRAM SHALL BE RESPONSIBLE FOR PAYING THE PREMIUMS OF EACH STUDENT ATHLETE WHOSE HOUSEHOLD HAS AN INCOME AND ASSET LEVEL THAT DOES NOT EXCEED THE FEDERAL POVERTY LEVEL, AS ADJUSTED ANNUALLY, FOR INSURANCE COVERING CLAIMS RESULTING FROM THE STUDENT ATHLETE'S PARTICIPATION IN THE ATHLETIC PROGRAM.

(B) AN ATHLETIC PROGRAM SHALL BE RESPONSIBLE FOR PAYING THE INSURANCE DEDUCTIBLE AMOUNT APPLICABLE TO THE CLAIM OF ANY STUDENT ATHLETE WHO SUFFERS AN INJURY RESULTING FROM HIS OR HER PARTICIPATION IN THE ATHLETIC PROGRAM AND MAKES A CLAIM RELATING TO THAT INJURY.

(C) IF A STUDENT ATHLETE SUFFERS AN INJURY RESULTING FROM HIS OR HER PARTICIPATION IN THE ATHLETIC PROGRAM THAT REQUIRES ONGOING MEDICAL TREATMENT, THE ATHLETIC PROGRAM SHALL PROVIDE, FOR A MINIMUM OF TWO YEARS FOLLOWING THE STUDENT ATHLETE'S GRADUATION OR SEPARATION FROM THE INSTITUTION OF HIGHER EDUCATION, ONE OF THE FOLLOWING:

(1) ALL MEDICAL TREATMENT NECESSARY FOR TREATMENT OF THE STUDENT ATHLETE'S INJURY OR CONDITION; OR

(2) HEALTH INSURANCE IN AN AMOUNT SUFFICIENT TO PROVIDE COVERAGE FOR ALL MEDICAL TREATMENT NECESSARY FOR TREATMENT OF THE STUDENT ATHLETE'S INJURY OR CONDITION, TOGETHER WITH ALL RESULTING DEDUCTIBLE AMOUNTS.

(D) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO PRE-EXISTING MEDICAL CONDITIONS THAT PRE-DATE THE STUDENT ATHLETE'S PARTICIPATION IN THE ATHLETIC PROGRAM.

7. GUIDELINES. AN ATHLETIC PROGRAM SHALL ADOPT AND IMPLEMENT GUIDELINES TO PREVENT, ASSESS, AND TREAT SPORTS-RELATED CONCUSSIONS AND DEHYDRATION. IN ADDITION, AN ATHLETIC PROGRAM SHALL ADOPT AND IMPLEMENT EXERCISE AND SUPERVISION GUIDELINES FOR ANY STUDENT ATHLETE IDENTIFIED

WITH POTENTIALLY LIFE-THREATENING HEALTH CONDITIONS WHO PARTICIPATES IN AN ATHLETIC PROGRAM.

8. APPLICABILITY. (A) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO AN INSTITUTION OF HIGHER EDUCATION THAT RECEIVES, AS AN AVERAGE, LESS THAN TEN MILLION DOLLARS IN ANNUAL INCOME DERIVED FROM MEDIA RIGHTS FOR INTERCOLLEGIATE ATHLETICS.

(B) AN INSTITUTION OF HIGHER EDUCATION SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL RELY EXCLUSIVELY ON REVENUE DERIVED FROM MEDIA RIGHTS FOR INTERCOLLEGIATE ATHLETICS TO DEFRAY ANY COSTS ACCRUED UNDER THIS SECTION.

S 4. This act shall take effect immediately and shall expire and be deemed repealed on June 30, 2024.